IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

Tr.P(C).No. 35 of 2003()

OPMV.1218/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM

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: PETITIONERS/PETITIONERS

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1. VASANTHA KUMARI, DEVI VILASAM,
   VENTURE ESTATE, ARYANKAVU VILLAGE,
   PATHANAPURAM TALUK, KOLLAM DISTRICT
   (WIFE OF THE DECEASED)

2. ANJU THOMAS, D/O. VASANTHAKUMARI,
   DO. DO. (DAUGHTER OF THE DECEASED)

3. MANJU THOMAS, D/O. VASANTHAKUMARI,
   DO. DO. (DAUGHTER OF THE DECEASED)

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS: RESPONDENTS

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1. MUHAMMED ASKAR SUNAITH, 43-B,
   MOUNT ROAD, TNKASI-627811,
   (REG.OWNER OF TN.72 H 1083 LORRY)

2. M.DIVAN MOHIDEEN, D/O. MALAKAR PITCHAI,
   13A/25, THAIKKA STREET, THENKASI,
   (MDL.NO.R/TN/722/000647/98)

3. NEW INDIA INSURANCE CO.LTD.,
   D O 720500 84 A,
   TRIVANDRUM ROAD, P.B.NO.47, PALAYAMCOTTAI,
   THIRUNELVELI-627 002. (POLICY NO.3172050016131)
   (CERTIFICATE NO.59867,VALIDITY 21-5-99 TO 20-5-00)
   INSURER OF THE VEHICLE NO.TN.72B.1083)

4. MANAGING PARTNER, M/S.STAR FISH EXPORTS,
   AB.5/420/AROOR, SHERTHALA, ALEPPEY DISTRICT
   (REG.OWNER KL-4 - 8672 NATIONAL PERMIT LORRY)

5. SALIMON K.P., S/O. THANKAYYAN,
   ANUPAMA NIVAS, BHAHMAMANGALAM, VAIKOM
   (MDL.NO.KV.2000/90 BADGE KL 728/91)

6. THE ORIENTAL INSURANCE CO.LTD.,
P.B.NO.8, JYOTHI SUPER BAZAR THODUPUZHA,
(POLICY NO.6230/2000, PERIOD OF VALIDITY
4-3-2000 TO 3-3-2001) (INSURER OF LORRY BEARING
NO.KL-4E-4E-8672)

7. K.T.VARKEY, KAREELAKULAM VEEDU,
EDAPALAYAM P.O., ARYANKAVU.

8. AKKAMMA VARKEY, DO.

9. K.V.GEORGE, DO.

10. K.V.MATHEW, DO.

11. STELLA MARY, DO.

12. ELIZABETH, DO.

13. PRASANNA KUMARI, DO.

14. KOCHU TRESIA, DO.

15. K.V.SANJOSE, DO.

BY ADV. SRI.B.MOHANLAL
SMT.MEREENA JOSEPH
SRI.REJI MATHEW KAVALAYIL
SRI.KKM.SHERIF
SRI.P.V.JYOTHI PRASAD

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

T.R.P.(C)35/03.

ORDER ON I.A.912/03 IN TR.P.(C)35/03
DISMISSED

12.12.06. SD/-M.SASIDHARAN NAMBIAR, JUDGE.

M.SASIDHARAN NAMBIAR,J.

Tr.P.(C)NO.35 OF 2003

DATED THIS THE 12th DAY OF DECEMBER, 2006

JUDGMENT

This petition was filed to transfer O.P.(M.V)1218/00 pending before Motor Accident Claims Tribunal, Kollam to Motor Accident Claims Tribunal, Punalur, where O.P.(M.V.) 316/2000 is pending. The case of petitioners was that first petitioner is the widow and petitioners 2 and 3 are the children of deceased Tom Varkey. O.P.(MV)316/2000 was filed by them claiming compensation for the death of Tom Varkey in a motor accident. Respondents 7 to 15 are the parents and brothers of deceased Tom Varkey. They filed O.P.(MV)1218/2000 before Motor Accident Claims, Tribunal, Kollam claiming compensation for the death of Tom Varkey in the same accident. In such circumstances, it cannot be disputed that both the cases are to be heard and disposed by the same Tribunal.

2. Learned Counsel appearing for petitioners and respondents were heard. Arguments of learned Counsel appearing for respondents was that first petitioner is not the widow of Tom Varkey and Tom Varkey died as a bachelor. According to them first petitioner is the wife of Devarajan and a divorce petition is pending. What ever it be

that is a fact to be considered by the Tribunal. It is not necessary to give any finding on that aspects in this petition. Both the cases are to be tried one and the same Tribunal. Petitioners in O.P.(MV) 1218/00 did not seek an order of transfer.

This petition is allowed. O.P.1218/00 on the file of Motor Accident Claims Tribunal, Kollam is withdrawn and transferred to Motor Accident Claims Tribunal, Punalur, where O.P.316/00 is pending, for disposal along with O.P.(MV)316/00 in accordance with law.

M.SASIDHARAN NAMBIAR,JUDGE

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